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December 29, 2005

**BY HAND**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
c/o Natek, Inc., Inc.  
236 Massachusetts Avenue, N.E., Suite 110  
Washington, DC 20002

Attn: Wireline Competition Bureau

**RECEIVED**

DEC 29 2005

Federal Communications Commission  
Office of Secretary

Re: *Telefónica Larga Distancia de Puerto Rico, Inc.*  
Petition for Expedited Declaratory Ruling

Dear Ms. Dortch:

Telefónica Larga Distancia de Puerto Rico, Inc. ("TLD") has received a copy of the Comments of Telecommunications Regulatory Board of Puerto Rico ("Puerto Rico Board"), dated December 29, 2005. TLD fully appreciates the significance of the issues raised in its Petition for Declaratory Ruling filed with the Commission on December 20, 2005 (the "Petition") and the need for interested parties to be afforded adequate opportunity to file comments. In its Supplement No. 1 to the Petition, filed on December 22, 2005, TLD advised the Commission of an action of the same date by the Puerto Rico Telephone Company ("PRTC") extending the effective date of the tariff revisions containing the so-called "Single Zone Plan" to April 7, 2006. TLD's need for expedition is two-fold: (1) that the Commission have adequate time to consider any filings made in response to the Petition, and TLD's reply thereto, prior to the "Single Zone Plan" going into effect; and (2) that PRTC is currently under no legal obligation, *i.e.*, an order by the Puerto Rico Board, to maintain the effective date of "Single Zone Plan" at April 7, 2006. With regard to the need for expedition, TLD is concerned that, should the Puerto Rico Board allow the "Single Zone Plan" to go into effect by virtue of its scheduled March 6, 2006 decision, it appears that there is no legal impediment to PRTC filing an additional tariff revision advancing the effective date of the "Single Zone Plan." The consequences to TLD, to competition, and to consumers in Puerto Rico have been detailed in the Petition. TLD

Marlene H. Dortch, Secretary  
December 29, 2005  
Page 2

notes that it has pending before the Puerto Rico Board a request that the Puerto Rico Board order PRTC not to advance the effective date of the Single Zone Plan without prior Puerto Rico Board approval. This matter has not yet been addressed by the Puerto Rico Board. TLD concurs with the Puerto Rico Board's request that the Commission issue a Public Notice setting forth the pleading cycle as soon as possible.

The original and four copies of this letter are being submitted. Please do not hesitate to contact me with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brett A. Snyder", with a stylized, flowing script.

Brett A. Snyder

*Attorney for Telefonica Larga Distancia de  
Puerto Rico, Inc.*

## CERTIFICATE OF SERVICE

I hereby certify that I have on this 29th day of December 2005 served a copy of the foregoing on the following persons by first-class mail, unless otherwise noted:

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Robert F. Reklaitis\*  
Leslie Paul Machado\*  
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Commonwealth of Puerto Rico  
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Chief, Wireline Competition Bureau  
Federal Communications Commission  
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Washington, DC 20554

\*Served via electronic mail in addition to first-class mail.

  
\_\_\_\_\_  
Brett A. Snyder

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of )

Telefónica Larga Distancia )  
De Puerto Rico, Inc. )

Petition for Expedited Declaratory Ruling )  
Regarding Section 253 of the Communications )  
Act of 1934, as amended )

WCB Docket No. \_\_\_\_\_

**RECEIVED**

**DEC 29 2005**

Federal Communications Commission  
Office of Secretary

**COMMENTS OF  
THE TELECOMMUNICATIONS REGULATORY BOARD  
OF PUERTO RICO**

The Telecommunications Regulatory Board of Puerto Rico ("Board"), by its attorneys, submits these informal comments on the above-captioned Petition for Expedited Declaratory Ruling submitted on December 20, 2005 by Telefónica Larga Distancia de Puerto Rico, Inc. ("Telefónica"). In its Petition, Telefónica requests expedited action on the basis that there will be an immediate injury to competition if a Single Zone Plan for island-wide calling proposed by the Puerto Rico Telephone Company ("PRTC") were to go into effect on January 6, 2006.

Under normal procedures, as outlined by the Commission in its November 17, 1998 Public Notice "Suggested Guidelines for Petitions for Ruling under Section 253 of the Communications Act," parties can expect the Wireline Bureau to release a Public Notice providing approximately 30 days to respond to the Commission.<sup>1</sup>

The purpose of these comments is to assure the Commission that the expedition requested by Telefónica is not necessary. The question of whether PRTC should be permitted to institute a


<sup>1</sup> Public Notice, FCC 98-295, November 17, 1998.

single local calling area is the subject of an ongoing Board proceeding which is not expected to be resolved earlier than March 6, 2006.<sup>2</sup> Further, PRTC has delayed the effective date of its tariff to April 7, 2006.

Moreover, this is a matter of considerable interest in Puerto Rico. Consequently many parties, including PRTC, Telefónica, WorldNet Telecommunications, Inc., AT&T de Puerto Rico, Centennial Puerto Rico License Corp., and Sprint are participating in the Board's proceeding. The matter has also drawn significant attention in Puerto Rico among consumers, the Commonwealth Government, legislators, municipal mayors, political parties and business groups. The Board will consider all of these comments in crafting a solution that furthers the pro-competitive goals of the Telecommunications Act. These parties should be given sufficient opportunity to prepare helpful comments.

The Board therefore suggests that the Telefónica Petition be put on Public Notice giving interested parties the normal 30-day period for comment.

Respectfully submitted,

By:   
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***Attorneys for the Telecommunications  
Regulatory Board of Puerto Rico***

December 29, 2005

<sup>2</sup> See Exhibit A (December 9, 2005 Schedule in Docket Nos. JRT-2005-Q-0121, JRT-2005-Q-0128, JRT-2003-Q-0297, JRT-2004-Q-0068).

## CERTIFICATE OF SERVICE

I, Cheryl A. Sinsabaugh, do hereby certify that on the 29 day of December 2005, I forwarded via e-mail or overnight delivery to the parties listed below a copy of the foregoing Comments of the Telecommunications Regulatory Board of Puerto Rico regarding the Petition for Expedited Declaratory Ruling Regarding Section 253 of the Communications Act of 1934, as amended

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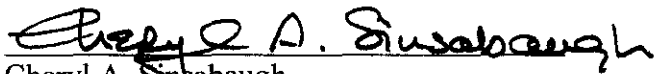
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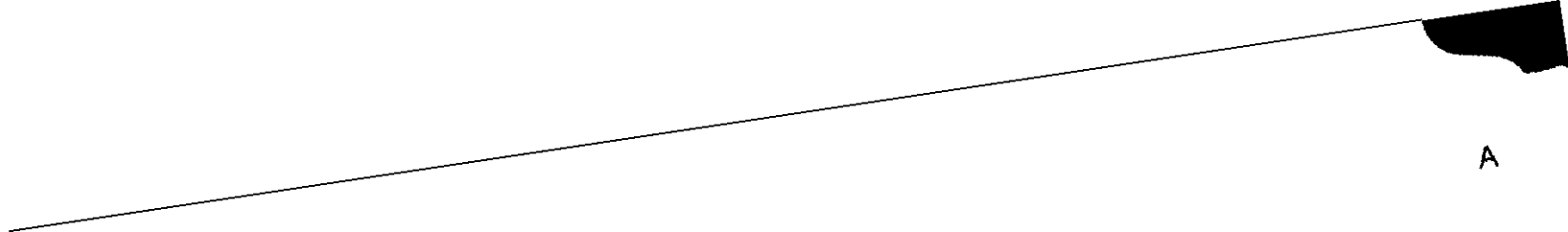
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Cheryl A. Simsabaugh

\* Overnight delivery



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**COMMONWEALTH OF PUERTO RICO  
TELECOMMUNICATIONS REGULATORY BOARD  
OF PUERTO RICO**

**TELEFONICA LARGA DISTANCIA  
DE PUERTO RICO, INC., et al.**

**Plaintiffs**

**vs.**

**PUERTO RICO TELEPHONE  
COMPANY, INC.**

**Defendant**

CASES NOS:

JRT-2005-Q-0121

JRT-2005-Q-0128

JRT-2003-Q-0297

JRT-2004-Q-0068

**RESOLUTION AND ORDER**

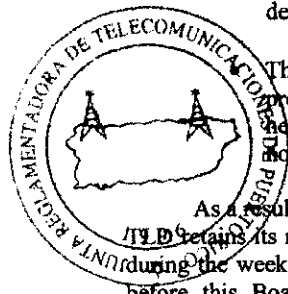
On December 1, 2005 Telefónica Larga Distancia de Puerto Rico, Inc. ("TLD") filed an *Urgent Motion to Compel* requesting this Board to compel Puerto Rico Telephone Company, Inc. ("PRTC") to produce certain documents pertinent to discovery material produced by PRTC to TLD on November 28, 2005. TLD argues certain documents included in that discovery are not covered by the attorney-client privilege as claimed by PRTC. On December 5, 2005, PRTC filed its *Puerto Rico Telephone, Inc. Opposition to Telefónica Larga Distancia de Puerto Rico, Inc.'s Urgent Motion to Compel*.

Pursuant to the scheduling order of this proceeding, on December 6, 2005 the parties appeared before this Board for the hearing on the merits on non-cost based issues. However, the Board concluded the discovery controversy relevant to the alleged privileged documents required resolution prior to commencement of the hearing. As a result of the arguments raised and after a lengthy discussion over the issue of discovery, TLD, AT&T, Sprint, WorldNet and Centennial, requested a postponement of the hearing, which PRTC opposed. After due consideration, the following decisions were taken by the Board:

- TLD's Urgent Motion to Compel was GRANTED IN PART.
- PRTC was ordered to produce to the Board, in a sealed envelope, and no later than Thursday, December 8, 2005, certain documents identified in its Exhibit 61, in order to determine whether they require protection under the attorney-client privilege rule, as PRTC claims.
- The Board will consider PRTC's request to name a Master for inspection of said documents.
- On December 8, 2005, the parties may brief the Board on the need of a Master, pursuant to PRTC's request.
- TLD is granted until December 8, 2005 to file reconsideration of this Board's decision on the issue of privilege subject of its Motion to Compel.

The Board decided to consider cost-based and non-cost based issues in a joint proceeding. Consequently, since the cost-based issues were scheduled to be heard on February 6, 2006, the Board agreed to hear both cost-based and non-cost based arguments on that same date.

As a result of the decisions taken during the course of the December 6, 2005 hearing, TLD retains its right to supplement its direct testimony, limited to the discovery produced during the week of November 28, 2005, as well as to the outcome on the privilege issue before this Board. In addition, PRTC's witnesses Thomas Pérez-Ducey and David Blessing, may be deposed on non-cost based issues, limited to the November 28, 2005



information and the final decision to be taken on the issue of privilege. Depositions may be taken pursuant to the date on this fifth revised schedule.

We hereby adopt the fifth revised schedule, as follows:

January 5, 2006	Responses to third interrogatories.
January 19, 2006	Filing of reply testimony on cost-based issues.
January 23 - 27, 2006	Depositions on cost-based issues
January 30, 2006	Filing of TLD's supplemental direct testimony on non-cost based issues, if needed.
January 31, 2006	Joint pre-hearing report.
February 1, 2006	Telephone pre-hearing conference.
February 6 - 10, 2006	Hearing on the merits.
February 20, 2006	Post-hearing briefs. (Electronically filed before 12 noon AST)
March 6, 2006	Order by the Board

In consideration of the above, this Board RULES AND ORDERS:

***The parties shall proceed in accordance with the fifth revised schedule we hereby adopt.***

***Replies to the motions to be submitted December 8, 2005 on the appointment of a Master and the privilege conclusion, shall be submitted. no later than December 15, 2005.***

NOTIFY the present Resolution and Order to the parties' representatives of record:

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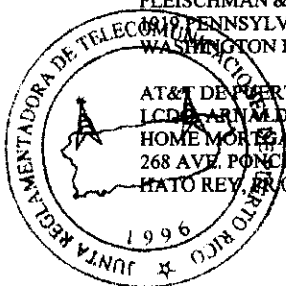
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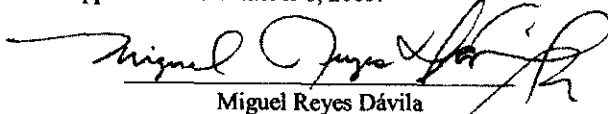
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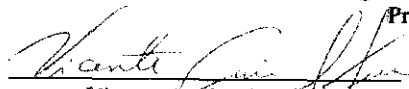
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So the Board approved on December 8, 2005.

  
Miguel Reyes Dávila  
President

  
Vicente Aguirre Iturrino  
Associate Member

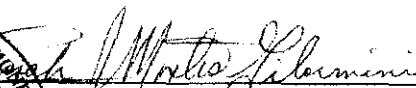
  
Nixyvette Santini Hernández  
Associate Member

#### CERTIFICATE OF SERVICE

I hereby CERTIFY that the foregoing document is a true and exact copy of the Resolution and Order approved by the Board on December 8, 2005. I further CERTIFY that today, December 9, 2005, I mailed a copy of the Resolution and Order to the parties' attorneys of record, and I have proceeded to file the instant order.

In witness whereof, I sign the present Resolution and Order in San Juan, Puerto Rico, on December 9, 2005.



  
GLORIA J. MONTES GILORMINI  
Secretary of the Board